

ENTERED

November 19, 2020

David J. Bradley, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

DANIELA ALEXANDRA GARCIA,
Plaintiff,

v.

MICHAEL R. POMPEO, SECRETARY
OF STATE, ET AL.,
Defendants.

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Civil Action No. 1:16-cv-00293

ORDER

Before the Court is “Defendant’s Motion to Abate Administrative Review” (“Motion”) (Dkt. No. 67), Daniela A. Garcia’s (“Plaintiff”) “Plaintiff’s Opposition to Defendants’ Motion to Abate or to Reconsider Prior Order” (Dkt. No. 70), “Defendant’s Supplemental Briefing” (Dkt. No. 72), and “Petitioner’s Response to Court Order of October 21, 2020” (Dkt. No. 73). For the reasons below, ruling on Defendant’s Motion (Dkt. No. 67) is **ABATED** until **February 1, 2021**. All remaining deadlines are **ABATED**.

I. PROCEDURAL HISTORY

This Court found Defendant’s failure to act on Plaintiff’s August 27, 2013, application for a certificate of identity (COI) “constituted a ‘final agency action’ under the APA.” Dkt. Nos. 47, 57. As a result, this Court found jurisdiction existed under the Administrative Procedure Act exclusively for the COI application. Dkt. No. 47. In response to a later Defendant motion (Dkt. No. 52) to limit this Court’s review to the administrative record, this Court clarified its previous order (Dkt. No. 47). The Court ordered Defendant “to issue a ruling” on Plaintiff’s COI application within 60 days, and abated review of the administrative record until Plaintiff exhausted all remedies under 8 U.S.C. § 1503(b). Dkt. No. 57.

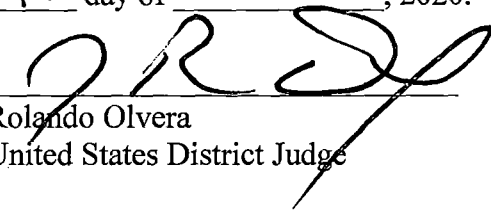
II. DISCUSSION

Upon review of the evidence and argument supplied by the parties, this Court finds Defendant has complied with this Court’s previous order (Dkt. No. 57) and has cured its failure by guaranteeing issuance of a COI to Plaintiff. Dkt. Nos. 67, 67-2. But Plaintiff has not been issued a COI because she has not yet visited the U.S. Consulate in Matamoros, Mexico (“Consulate”), to receive a COI. Dkt. Nos. 70, 73.

III. CONCLUSION

For the reasons above, the Court's ruling on Defendant's Motion (Dkt. No. 67) is **ABATED** until **February 1, 2021**. If Plaintiff decides not to visit the Consulate before February 1, 2021, and request issuance of a COI, the Court will grant Defendant's Motion by separate order and dismiss this cause of action for lack of subject-matter jurisdiction, because Plaintiff will have failed to exhaust her administrative remedies under 8 U.S.C. § 1503(b). If Plaintiff visits the Consulate before February 1, 2021, and requests issuance of a COI, Plaintiff is **ORDERED** to file a status report with the Court no later than **February 1, 2021**, stating whether the Consulate issued a COI or denied Plaintiff's request (and whether Plaintiff intends to appeal the denial). All remaining deadlines are **ABATED**.

Signed on this 19th day of November, 2020.



Rolando Olvera
United States District Judge